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October 11, 2018

VIA ECF & E-MAIL

The Honorable Richard J. Sullivan
United States District Court
Southern District of New York
40 Foley Square, Room 2104
New York, NY 10007

Re: *Actava TV, Inc., et al. v. Joint Stock Company “Channel One Russia Worldwide” et al. (18-cv-06626)*

Dear Judge Sullivan:

The Parties in the above-captioned action jointly submit this letter in order to provide the following information requested by the Court in its September 6, 2018 Order (the “Order”).

(1) Nature of the Action and Principal Defenses

Plaintiffs Actava TV, Inc., Master Call Communications, Inc., Master Call Corporation, and Rouslan Tsoutiev (the “Actava Parties”) bring this action to recover damages for tortious interference, malicious prosecution, and breach of contract against the Defendants, who consist of a group of Russian television broadcasters (the “Channels”)¹ and Kartina Digital GmbH (“Kartina”), an entity licensed by the Channels to distribute their Russian-language programming via IPTV. The Actava Parties primarily allege that after Actava entered into a prior settlement agreement with the Channels, Kartina and the Channels embarked on an illegal campaign to inflict damage on the Actava Parties’ growing competitive business, involving a partnership with non-party Matvil Corporation (“Matvil”), by bringing meritless contempt proceedings and by inducing Matvil to sever its partnership with Actava. On October 4, 2018, the Actava Parties amended their complaint as of right to add Kartina as a defendant claiming a violation of New

¹The Channels are Joint Stock Company “Channel One Russia Worldwide,” Closed Joint Stock Company “CTC Network,” Closed Joint Stock Company “New Channel,” Limited Liability Company “Rain TV-Channel,” Open Joint Stock Company “ACCEPT,” and Limited Liability Company “Comedy TV.”



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York Gen. Bus Law. § 349, in addition to the claims for malicious prosecution and tortious interference.

The Channels contend that dismissal is warranted for (1) lack of jurisdiction over any non-contract claim; (2) failure to state a claim; and (3) collateral estoppel. (Doc. Nos. 21, 29, 34). The Amended Complaint was filed on October 4, 2018 (Doc. No. 38) and the Channels time to respond extends through October 18, 2018. The Channels will likely seek to renew their letter motions and move against the Amended Complaint. A summons was issued to Kartina earlier today, October 11, 2018 (Doc. No. 43), and Kartina has not yet been served or appeared in this action.

(2) Jurisdiction and Venue

Plaintiffs contend that jurisdiction over the Defendants is proper because the Channels and Kartina have purposely availed themselves of the New York forum by pursuing litigation against the Actava Parties here, thereby surrendering any jurisdictional objections to claims arising out of the same transaction. Plaintiffs believe that jurisdiction is also proper because the Channels and Kartina have transacted business in New York and/or have directed their broadcasts into the stream of commerce with knowledge that such broadcasts would reach New York. Plaintiffs further contend that venue lies in this Court because a substantial part of the events giving rise to the Actava Parties' claims occurred in New York.

The Channels contend that the Court lacks jurisdiction over them because they are all based in Russia and there is no basis other than the injunctions at issue in this case for jurisdiction. The plain language of the injunctions in issue provided the Court with jurisdiction only for the purposes of enforcing the injunctions, not for collateral matters such as this. (Doc. No. 21 at 2).

(3) Outstanding Motions and/or Requests to File Motions

On September 26, 2018, Joint Stock Company "Channel One Russia Worldwide" and Closed Joint Stock Company "New Channel" requested that the Court schedule a pre-motion conference regarding their contemplated motion to dismiss and advised the Court that that the other Channels would retain the Dunnington firm. *See* Doc. No. 21. On October 1, 2018 Closed Joint Stock Company "CTC Network," Limited Liability Company "Rain TV-Channel" and Closed Joint Stock Company "TV Darial" joined the request (Doc. No. 29) and on October 2, 2018 Defendant, Limited Liability "Comedy TV" joined the request (Doc. No. 34). On October 1, 2018, the Court ordered that the initial conference scheduled to be held on October 26, 2018 at 4:00 p.m. will also serve as a pre-motion conference regarding Defendants' contemplated motion. *See* Doc. No. 35. The Court's October 1 Order also vacated the Clerk's default against Channel Defendants who failed to answer or appear timely, and directed the parties to be prepared to address the Actava Parties' request that its costs of obtaining that default



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should be reimbursed by those non-answering defendants, who were served pursuant to the Court's prior order and were thus due to appear and respond to the complaint by September 19, 2018.

There are no other outstanding motions or requests.

(4) Description of Discovery

Discovery has not yet commenced, but counsel engaged in a Rule 26(f) conference on October 5, 2018 to discuss the topics required by that Rule and to prepare for the October 26 conference. Discovery will be important to support the Parties' claims and defenses in this action, as well as in order to engage in meaningful settlement negotiations. If the case is not dismissed, discovery would include document production, interrogatories, depositions, the exchange of expert reports, and potential third-party discovery.

As mentioned above and described further below, the Actava Parties have added Kartina as a Defendant in this case, which is in the process of being served. At the time of the Rule 26(f) conference and to date, Kartina has not yet retained counsel in this case, although the Channel Defendants' counsel advised they would notify the Actava Parties if and when they are retained. The Channel Defendants' counsel is currently reviewing the Actava Parties' proposals for the Case Management Plan following the Rule 26(f) conference. In light of these developments, the Parties request a slight delay in submitting their proposed Case Management Plan to the Court, which they propose submitting no later than next Wednesday, October 17, 2018.

(5) Prior Settlement Discussions

The Parties have not had any settlement discussions. During the Rule 26(f) conference counsel discussed the possibility of engaging in settlement discussions.

(6) Estimate Length of Trial

The Parties estimate the length of trial, if any, to last up to six (6) days.

(7) Other Information

On October 5, 2018, the Actava Parties amended the complaint, primarily to reflect their decision to add Kartina Digital GmbH ("Kartina") as an additional defendant. The Actava Parties contend that a copy of the Amended Complaint was provided to Kartina on October 5, 2018, and Kartina is in the process of being formally served with process now that a supplemental summons has been issued. We enclose a courtesy copy of the Amended Complaint filed with the Court. For the Court's convenience, we also enclose a redline showing the changes.



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The Parties jointly look forward to discussing the case at the initial conference which the Court has scheduled for October 26, 2018, and respectfully request that the case management plan be jointly submitted by next Wednesday, October 17, 2018.

Dated: New York, New York
October 11, 2018

Respectfully submitted,

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